

Remarks

At the outset, applicants note that the Examiner has objected to the drawings filed on August 22, 2000. Accordingly, submitted herewith is a set of Formal Drawings that applicants believe satisfy the requirements for Formal Drawings.

Applicants acknowledge that the Substitute Specification filed May 19, 2003 has been entered.

Claims 25-48 are pending in the subject application. Claims 1-24 were previously canceled. Claims 25-48 are canceled herein. New claims 49-64 have been added. Accordingly, new claims 49-64 are under consideration.

New claims 49-64 have been added. Support for these new claims is found in previously submitted claims 1-48 and throughout the specification. Specifically, support for new claim 49 is found in previously presented claims 25, 26, and 32. Support for new claim 50 is found in previously presented claims 35 and 37; additional support for new claim 50 is found in the specification, for example, at page 4, line 35 to page 5, line 3, wherein the term transgene is clearly contemplated with regard to transgenic plants, and in Example 3, at pages 12-19, wherein transgenic plants are generated using the sequences and method of the invention. Support for new claim 51 is found in previously presented claim 35 and in originally presented claim 1, wherein support for fragments of SEQ ID NO: 1, which includes the 3' flanking sequence, is presented; and in Example 3, wherein the description of plasmid ds10F2(delta) clearly demonstrates utilization of a fragment of the 3'-flanking region of the HaDs10 gene as an effective regulatory sequence. Support for new claim 52 is found in previously presented claim 36; support for new claim 53 is found in previously presented claims 38 and 32; support for new claim 54 is found in previously presented claim 39; support for new claim 55 is found in previously presented claim 44; support for new claim 56 is found in previously presented claim 45; support for new claim 57 is found in previously presented claims 41, 26, and 32, and in Example 3, at pages 12-19, for example, wherein transgenic plants comprising the nucleic acid sequences of the invention are described; support for new claim 58 is found in previously presented claim 47; support for new claim 59 is found in previously presented claim 48; support for new claim 60 is found in previously presented claims 40, 41 and 38; support for new claim 61 is found in previously presented claims 42-44; support for new claim 62 is found in previously presented claim 45; support for new claim 63 is found in previously presented claim

46; and support for new claim 64 is found in previously presented claim 48. No issue of new matter is introduced by new claims 49-64.

Applicants have herein cancelled claims 25-48, thereby rendering the Examiner's rejection of these claims moot. For the purposes of clarity, however, applicants will address the rejection of the cancelled claims to render apparent that they do not pertain to the newly submitted claims.

The Examiner's rejection of claims 25-31, 33-34, 37-40, 42-43, and 45-48 under 35 U.S.C. §112, first paragraph, does not pertain to the present claims as the newly submitted claims are directed to an *Ha ds10 G1* gene 5' flanking sequence comprising nucleotides 1-1576 of SEQ ID NO: 1 and fragments thereof which have seed specific promoter activity. Flanking sequences of an *Ha ds10 G1* gene comprising nucleotides 2879-3617 of SEQ ID NO:1 and fragments thereof, which have seed specific promoter activity are also encompassed by the new claims.

Inasmuch as the new claims are directed to an *Ha ds10 G1* gene 5' flanking sequence comprising nucleotides 1-1576 of SEQ ID NO: 1 and fragments thereof having a specific promoter activity and, for some applications, an *Ha ds10 G1* gene 3' flanking sequence comprising nucleotides 2879-3617 of SEQ ID NO:1 and fragments thereof having a specific promoter activity, it would be apparent to a skilled artisan that applicants were in possession of the invention at the time of filing. In further support, applicants submit that the as filed application describes experiments using different constructions (i.e., expression cassettes) comprising nucleotides 1-1576 of SEQ ID NO: 1. See, for instance, Examples 1-3. Moreover, the as filed specification also presents ample guidance with which a skilled person can make additional constructs or expression cassettes comprising nucleotides 1-1576 of SEQ ID NO: 1 and fragments thereof and test such expression cassettes for seed-specific promoter activity. Therefore, it is submitted that the invention as presently claimed was in the possession of the inventors at the time of filing and thus fulfills the requirements of 35 U.S.C. §112, first paragraph.

The Examiner's rejection of claims 31-33, 40-41, and 43-48 under 35 U.S.C. §112, second paragraph, as allegedly incomplete for omitting essential steps pertaining to "the other component of the chimeric gene" does not relate to the present claims as the newly submitted

claims have been written so as to be responsive to the Examiner's comments. Applicants submit that the new claims are definite with regard to the components of the expression cassette.

The Examiner's rejection of claims 37-38 under 35 U.S.C. §112, second paragraph, as allegedly incomplete for omitting essential structural cooperative relationships of elements does not relate to the present claims as applicants believe that the newly submitted claims were drafted with consideration to the Examiner's remarks. The newly submitted claims are, therefore, clear as they relate to the components of the expression cassette.

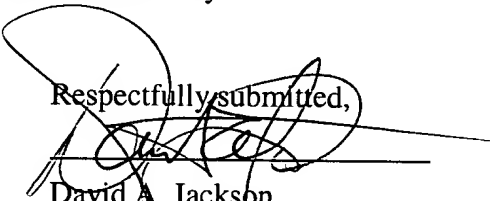
Fees

A check in the amount of \$55.00 is enclosed for a one-month extension of time. No other fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

Conclusion

Applicants submit that the new claims are in condition for allowance, and accordingly, early allowance of the claims is believed to be in order and is courteously solicited.

Respectfully submitted,


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Attachments: Petition for a One-Month Extension of Time
One Set of Formal Drawings